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EXAMINER

GENCO, BRIAN C

ART UNIT

PAPER NUMBER

2615

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17

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/209,751

Applicant(s)

MATAMA, TORU

Examiner

Brian C Genco

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 316.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Applicant's amendment has overcome the rejections presented in the previous office action. New grounds of rejection for claims 1-10 are presented bellow.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1 and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over (USPN 6,295,388 B1 to Stokes et al) in view of (USPN 5,596,346 in view of Leone et al).

In regards to claim 1 Stokes et al., herein Stokes, discloses an image processing apparatus for subjecting input image data of an image obtained by optical photographing to presetted processing and making the input image data to output image data, comprising:

a display for displaying the image carried by the image data at high resolution or low resolution, wherein the image data at high resolution is finely scanned and the image data at low resolution is pre-scanned (e.g., see Figs. 2-6);

display switching means of switching at least one portion or all portions of the image displayed on said display from the low resolution to the high resolution and vice versa (e.g., the display switching means is set by selecting an area 44 of the image to be displayed at high resolution wherein the high resolution scan can be stopped if the high resolution image is unacceptable. Examiner notes that Stokes does not explicitly disclose nor preclude that a user can switch from the high resolution display to the low resolution display, however, Stokes does disclose that the high resolution scan is output to a different window. Examiner notes that it is extremely well known in the art at the time of the invention to allow a user to switch between

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windows in order to selectively see a desired window out of multiple windows. Official notice is taken. Therefore it would have been obvious at the time of the invention to have enabled the user of Stokes' invention to have selected which window is displayed in order to selectively see a desired window out of multiple windows; column 3, lines 26-28, 42-44, and 53-58; column 4, lines 3-5; Figs. 1-6);

designation means for designating a region in the image of the low resolution displayed on said display by said display switching means (e.g., the designation means is inherent in selecting a detail area within the preview scan; column 3, lines 55-57).

Stokes does not disclose that the designation means necessarily designate a region including an eye or the red eye correction means.

Leone et al., herein Leone, discloses zooming in on a region including an eye for detecting red-eye as depicted in Figs. 1A-2D (e.g., column 3, lines 41-47). Upon detecting a red-eye condition Leone discloses the ability to correct the red-eye condition is desired by the user (e.g., column 4, lines 24-37). Leone further discloses the ability to print the image wherein upon pressing a print button a preview image of the entire image after all of the corrections is displayed (e.g., column 7, lines 18-20). Examiner notes that both Stokes and Leone are interested in "zooming" in to a desired location in order to enable a user to determine if the image is acceptable. While Stokes teaches that upon reviewing an unacceptable image, the high resolution scan can be canceled, Leone goes on to disclose various functions for correcting the image and further to provide a printing option in order to enable the user to generate a printed copy of the image. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have added the correction functions to Stokes' invention in order to

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enable a user to correct undesirable features in an image rather than just discarding the image. As such, the region designated by the designation means is displayed at high resolution before the correction processing. It further would have been obvious to one of ordinary skill in the art at the time of the invention to have added the print feature of Leone's invention to that of Stokes in order to allow a user to generate a corrected print of an image. As such, the display switching means is more fully defined in that by designating a button the image is switched so as to display a corrected preview of the entire image.

In regards to claim 7 see examiners notes on the rejection of claim 1. Note the disclosed process of zooming-in on the eye takes place before red-eye correction.

In regards to claim 8 note Figs. 1 and 2 of Stokes' disclosure (column 2, line 62 – column 3, line 14. Also, Leone discloses, "The photographer will sometimes misplace the negatives and only retain the original print. In this situation the original print must be photographed or otherwise captured. This capturing can be done chemically or digitally (column 1, lines 26-30, Leone)," or "input image data of the image obtained by the optical photographing are image data which are read photoelectrically from an image on a photographic film that is photographed and then developed."

In regards to claim 9 see Examiners notes on the rejection of claim 1.

In regards to claim 10 see examiners notes on the rejection of claims 1 and 8. Note that Leone discloses, "the original print must be photographed or otherwise captured (column 1, lines 28-29, Leone)," wherein "image data obtained directly by photographing a subject" falls under the category of being "otherwise captured." Also note that it is well know in the art and obvious to one skilled in the art to interchange taking photographic pictures using both photographic film

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and digital imaging devices such as CCD's. Further note that the scanning devices disclosed by both Stokes and Leone do directly photograph a subject, namely the film.

Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over (USPN 6,295,388 B1 to Stokes et al) in view of (USPN 5,596,346 in view of Leone et al) in further view of (USPN 5,420,699 to Yamanouchi et al).

In regards to claim 2 see examiners notes on the rejection of claim 1. Note Leone's disclosure, wherein, "As depicted in FIG. 1D on of the eyes of the subject 24 is now positioned in the center of the window 22 and the view port 32 is also centered on the eye as well as being of a size where only the area around the eye is defined as being within the view port 34. The user can now determine if the "red-eye" condition exists in the eye shown in the window 22. If the condition exists the user can activate a conventional process for correcting the artifact condition by touching the apply button 18. This will result in the portion of the source image 32 seen by the user in the window 22 (as defined by the view port 34) being processed (column 4, lines 23-31, Leone)," or "means for selecting either one of execution or non-execution of processing by said display switching means, said designation means and said red eye correction means as a mode," whereby if the disclosed user doesn't detect the red-eye condition then non-execution of processing will be preformed. Leone does not disclose "means for automatically determining said either one of the execution and the non-execution of the processing from photographing information and means for selecting and indicating said either one of the execution and the non-execution of the processing."

Yamanouchi et al, herein Yamanouchi, discloses “a transparent magnetic recording layer is coated on the side opposite to a light sensitive surface of a film base of the film (column 3, lines 36-38, Yamanouchi)” depicted in Fig. 1 element B, as well as “image pattern B includes information of conditions necessary for printing process such as weather in the course of photographing, time of photographing and whether a strobe was used or not (column 3, lines 46-50, Yamanouchi),” and finally that “optical information sensor S1 reads the aforementioned image pattern B first, the data thereof are sent to an optical information analyzing unit, and for example, filter f1 is selected so that color correction corresponding to the aforesaid photographing conditions may be made (column 4, lines 46-50, Yamanouchi),” wherein the disclosed optical information analyzing unit automatically determines processing functions, such as color correction or red-eye correction based on the information recorded on image pattern B. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have “at least one of means for selecting either one of execution and non-execution of processing by” either user input commands as disclosed by Leone or by automatic determination means based on pre-recorded information about the photographing conditions as disclosed by Yamanouchi.

In regards to claim 3 see examiners notes on the rejection of claim 2. Yamanouchi discloses “image pattern B includes information of conditions necessary for printing process such as weather in the course of photographing, ...and whether or not a strobe was used (column 3, lines 45-49, Yamanouchi),” wherein all of the claim limitations listed in claim 3 are necessary for determining the possibility of red-eye occurring in a picture and are therefore necessary for printing process. It would have been obvious to one of ordinary skill in the art at the time of the

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invention to record information about the photographing conditions as disclosed in Yamanouchi in order to allow more information to the user “for the purpose of efficient printing (column 1, line 57, Yamanouchi).”

In regards to claim 4 Yamanouchi discloses recording information such as whether a strobe was used or not as noted above wherein it is very well known and established in the art that if a strobe or flash was not used then there is no possibility of having red-eye defects in a picture and as noted above in the rejection of claim 2 the determination means would note that there is not possibility for red-eye to have occurred in the picture and therefore would not do red-eye processing on the picture or “means for determining the non-execution of the processing.”

In regards to claim 5 see examiners notes on the rejection of claims 3 and 4.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over (USPN 6,295,388 B1 to Stokes et al) in view of (USPN 5,596,346 in view of Leone et al) in further view of (USPN 5,420,699 to Yamanouchi et al) in further view of (USPN 6,407,777 to DeLuca).

In regards to claim 6 Leone and Yamanouchi disclose the red-eye removal processing however do not disclose how this processing takes place. DeLuca discloses, “FIG. 5 shows combination pupil/iris pixels which have color components of the red-eye phenomenon ... The invention modifies these pixels by separating the color components associated with the red-eye, modifying color of the separated color components and then adding back modified color to the pixel (column 4, lines 44-50, DeLuca),” or “image take-out means,” “color transform means,” and “image data replacing means.” Therefore it would have been obvious to one of ordinary

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skill in the art at the time of the invention to have used DeLuca's red eye processing method so as to fully define the red-eye processing disclosed by Leone and Yamanouchi.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian C. Genco who can be reached by phone at 703-305-7881 or by fax at 703-746-8325. The examiner can normally be reached on Monday thru Thursday 7:30am to 4:30 pm and every other Friday 7:30am to 3:30pm.

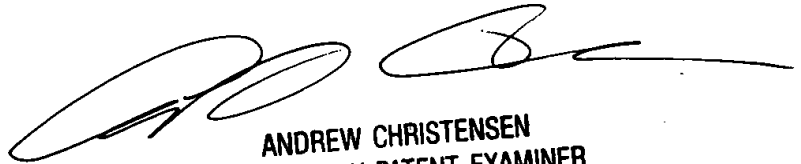
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Christensen can be reached on 703-308-9644. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the customer service office whose telephone number is 703-308-4357.

Brian C Genco
Examiner
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November 3, 2003

A handwritten signature in black ink, appearing to read 'Andrew Christensen', is written over a printed name and title block.

ANDREW CHRISTENSEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600